

**From:** Richard Turk  
**To:** Microsoft ATR  
**Date:** 1/23/02 1:27pm  
**Subject:** Microsoft Settlement

I OPPOSE the proposed final judgement. It is inadequate.

I just read through the proposed settlement, and I have listed some comments below. I acknowledge that these comments could be considered nitpicky, but bear in mind that Microsoft does not have a history of operating in "good faith": they will attempt to exploit any weakness or ambiguity. Also, remember that time and money are on Microsoft's side: even if they are ultimately held accountable for a breach, it might take many months and many dollars to push the suit through the courts. The language of this agreement must be sufficiently strong and clear that violations can be determined quickly (summary judgement) by the trial court. Otherwise, Microsoft will be able to use the intervening time to extend its monopoly and suppress competition.

Problem 1. The term "Windows Operating System" is inadequate: it omits a large variety of products currently available or under development. Also, Microsoft could rename a future product to avoid this definition. (e.g. Windows CE is now PocketPC; the XBox could become an exempt computing platform)

Remedy 1. The anti-monopoly restrictions should be placed on *\*all\** Microsoft products, both hardware and software.

Problem 2. The settlement allows Microsoft to choose which companies can gain access to their API's and protocol specifications. This will permit Microsoft to withhold information from Open Source or volunteer programmers, thus suppressing competition and consumer choice.

Solution 2. Microsoft should publish API's and protocol specifications publicly, for all developers; the notion of "legitimate business interest" should be dropped.

Problem 3. The definition of "bona fide joint venture" is not given. Without a clear indication, Microsoft can bottle up suits in court.

Solution 3. Provide a very narrow, explicit definition.

Problem 4. Section VI(U) Gives Microsoft discretion as to what comprises a "Windows Operating System Product". Microsoft could make unreasonable claims of exclusion and then fight in court, thus delaying fair competition.

Solution 4. Either remove this section, or let the Technical Committee decide what comprises the OS.

I could come up with more specifics, but I'm sure others have done a more thorough job.

Also, it might help to create a punishment for "parole violation": if Microsoft loses a certain number or percentage of lawsuits relating to specifics of this judgement, then there would be automatic and severe monetary penalties and additional restrictions. This might deter them from using the courts as a delaying tactic.

